

## **Administrative Law**

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### **Statement of Need and Reasonableness**

*Chapter 274, Section 1*  
*Amends Minn. Stat. § 14.131*  
***Effective August 1, 2004***

In preparing a statement of need and reasonableness of a proposed rule, state agencies must consult with the commissioner of finance to help evaluate the fiscal impact and fiscal benefits of the proposed rule on local government units.

## **Child Care Assistance Programs**

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### **Transition Year Families**

*Chapter 288, Article 4, Section 6*  
*Amends Minn. Stat. § 119B.011, subd. 20*  
***Effective August 1, 2004***

Makes families who have received Diversionary Work Program (DWP) assistance eligible for transition year child care. DWP families are not eligible for transition year child care when they have been disqualified from DWP due to fraud. Adds a new subdivision for transition year extension families.

### **Universal Application Form**

*Chapter 288, Article 4, Section 7*  
*Amends Minn. Stat. § 119B.02, subd. 4*  
***Effective August 1, 2004***

Allows the commissioner to develop and make available to all counties a child care addendum form to be used to supplement the combined application form for MFIP, DWP, or Food Support, or to supplement other statewide application forms for public assistance programs for families applying for one of these programs in addition to child care assistance.

### **Eligibility for Basic Sliding Fee**

*Chapter 288, Article 4, Section 8*  
*Amends Minn. Stat. § 119B.03, subd. 3*  
***Effective August 1, 2004***

Includes DWP families in the list of families who are not eligible for Basic Sliding Fee (BSF) child care assistance.

### **Funding Priority for Basic Sliding Fee**

*Chapter 288, Article 4, Section 9*

*Amends Minn. Stat. § 119B.03, subd. 4*

***Effective August 1, 2004***

Removes obsolete language. Includes DWP transition year families under the second priority category for funding priority.

### **At-Home-Infant Care Program**

*Chapter 288, Article 4, Sections 12 through 14*

*Adds Minn. Stat. § 119B.035*

***Effective July 1, 2004***

Reinstates the At Home Infant Care Program. Allows families in which a parent provides care for the family's infant to receive a subsidy in lieu of assistance if the family is eligible for, or is receiving assistance under the BSF program.

### **Co-Pays for Child Care Assistance Program**

*Chapter 288, Article 4, Section 15*

*Amends Minn. Stat. § 119B.12, subd. 2*

***Effective August 1, 2004***

Specifies that parent fees begin at 75 percent of the federal poverty level and the minimum parent fee is \$10 per month.

### **Authorization of Child Care Providers**

*Chapter 288, Article 4, Sections 16 through 17*

*Amends Minn. Stat. § 119B.125, subd. 1*

***Effective August 1, 2004***

Requires providers be reauthorized every two years. Requires legal, non-licensed providers to be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. Requires providers to report all changes that would require reauthorization. Establishes which county is responsible for reauthorization when a provider is authorized to provide care for families in more than one county.

### **Temporary Ineligibility of Military Personnel**

*Chapter 288, Article 4, Section 61*

***Effective August 1, 2004***

Requires counties to reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service. Allows activated military personnel to be temporarily ineligible until deactivated. Also requires counties to reserve a military family's position on the BSF waiting list if a family is approved to receive child care assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.

# Child Welfare

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## **Single Benefit Demonstration Project**

*Chapter 288, Article 3, Section 19*

*Amends Minn. Stat. § 256.01 by adding a new subd. 14a*

***Effective August 1, 2004***

Allows the Department of Human Services (DHS) to conduct a demonstration program under a federal Title IV-E waiver to show the impact of a single benefit level on the rate of permanency for children in long-term foster care through transfer of permanent legal custody or adoption. DHS is authorized to waive enforcement of related statutory program requirements, rules and standards in one or more counties for the purpose of this demonstration. The demonstration must be cost neutral to the state. DHS may accept and administer county funds and transfer state and federal funds among the affected programs as necessary to conduct the demonstration.

## **Relative Search for Child in Need of Foster Care**

*Chapter 288, Article 3, Section 30*

*Amends Minn. Stat. § 260C.212, subd. 5*

***Effective August 1, 2004***

A relative's decision not to be a placement resource at the beginning of the case will no longer affect the relative being considered for placement of the child later. New language states that a decision by a relative not to be placement resource at the beginning of the case shall not affect whether the relative is considered as a placement option later. Also adds language stating that the relative search shall include both maternal relatives of the child and paternal relatives, if paternity is adjudicated. Requires DHS to develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements.

## **Definition of Foster Care**

*Chapter 288, Article 3, Section 28*

*Amends Minn. Stat. § 260C.007, subd. 18*

***Effective August 1, 2004***

Deletes the current definition of foster care and replaces it with the federal definition, which states that foster care means 24 hour substitute care for children placed away from their parents or guardian and for whom a responsible social services agency has placement and care responsibility. The definition also includes a list of the types of placements that are covered and those that are not.

### **Child Welfare Case Managers**

*Chapter 288, Article 3, Section 27*

*Amends Minn. Stat. § 256F.10, subd. 5*

***Effective August 1, 2004***

Amends the qualifications for case managers to include those authorized to serve as a tribal child welfare case manager certified by a federally recognized tribal government within the state of Minnesota, pursuant to § 256B.02, subd. 7(c) and determined as meeting applicable standards.

### **Placement Review and Permanency Hearing**

*Chapter 288, Article 3, Section 29*

*Amends Minn. Stat. § 260C.201, subd. 11*

***Effective August 1, 2004***

Clarifies that time spent by a child under the protection supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order counts towards the requirement of holding a permanency hearing not later than 12 months after the child is placed in foster care or the care of a noncustodial parent.

### **Foster Care Background Studies and Licensing Provisions**

*Chapter 288, Article 1*

*Amends various sections of Minn. Stat. § 245C*

***Effective May 30, 2004***

Amends various sections of the law pertaining to background studies and licensing provisions for foster care providers.

### **Duties of Local Welfare Agency or Local Law Enforcement Agency Upon Receipt of a Report**

*Chapter 288, Article 1, Section 78*

*Amends Minn. Stat. § 626.556, subd. 10*

***Effective May 30, 2004***

Requires the agency assessing or investigating a child maltreatment report to inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the reporter. This change was made pursuant to recommendations from a federal audit.

### **Administrative Reconsideration**

*Chapter 288, Article 1, Section 80*

*Amends Minn. Stat. § 626.556, subd. 10i*

***Effective May 30, 2004***

Strikes language in the maltreatment of minors act to clarify that a disqualified individual's hearing rights only arise from the commissioner's decision not to set aside a disqualification.

## **Standard of Evidence for Maltreatment and Disqualification Hearings**

*Chapter 288, Article 1, Section 77*

*Amends Minn. Stat. § 256.045, subd. 3b*

***Effective May 30, 2004***

Requires state human services referees to determine whether a disqualification should be set aside. Specifies the factors the referee must consider when determining whether to set aside the disqualification. Also clarifies a disqualified individual's appeal rights under certain circumstances.

## **Consumer Law**

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### **Debt Collectors**

*Chapter 208*

*Amends Minn. Stat. § 332.33*

***Effective January 1, 2005***

Debt collectors will be required to register with, rather than obtain licenses from, the Department of Commerce. The department's powers over registrants, and all other provisions governing debt collectors, remain unchanged. New obligations for collection agencies include: (1) screening collector applicants, (2) registering with the department all collectors employed by the collection agency, and (3) verifying that each collector meets the requirements under Minnesota law.

### **Dishonored Checks**

*Chapter 174*

*Amends Minn. Stat. § 604.113, subd. 2*

***Effective August 1, 2004***

Provides that law enforcement agencies obtaining payment of a dishonored check on behalf of the payee or holder may retain up to the entire \$30 service charge for which issuers of dishonored checks are liable. Only one service charge may be imposed.

### **Equity Stripping**

*Chapter 263*

*Adds Chapter 325N; Minn. Stat. § 580.04; Minn. Stat. § 462A.05, subd. 3*

***Effective August 1, 2004 (except MHFA provision, which is effective July 1, 2004)***

Enacts consumer protections to curb "foreclosure rescue scams." These transactions involve misrepresentations by unscrupulous real estate speculators, operating on their own or through intermediaries, who persuade homeowners in foreclosure to convey title in exchange for promises to "save the home" through a lease back with option to buy deal, a contract for deed or other arrangement.

The legislation affects only one- to four-family residential properties, one of which the owner occupies as his or her principal residence, where either a foreclosure notice has been recorded or a summons and complaint has been served. The legislation defines and governs two categories of operators – “foreclosure consultants” and “foreclosure purchasers.”

A consumer has a three-day right to cancel an agreement with a foreclosure consultant and a five-day right to cancel an agreement with a foreclosure purchaser. Mandatory arbitration clauses are prohibited.

**Foreclosure consultants** are prohibited from: (a) seeking or receiving any compensation until contract services are fully performed, (b) charging fees or interest in excess of 8% of any loan made by the foreclosure consultant, (c) taking any wage assignment, lien, or other security to secure payment of compensation, (d) receiving any consideration from a third party without full disclosure to the owner, (e) acquiring a direct or indirect interest in the property, (f) taking power of attorney from an owner, except to inspect documents as provided by law, or (g) inducing or attempting to induce an owner to enter into a contract that does not comply with the contract and notice provisions.

With respect to **foreclosure purchasers**, the new law establishes an ability to pay standard (60% of monthly gross income), requires a closing, requires compliance with the Homeowner Ownership and Equity Protection Act (15 U.S.C. § 1639; 12 C.F.R. § 226.31 – 226.34), prohibits unfair or commercially unreasonable transactions, prohibits representations by purchasers that they are acting in any way on behalf of a homeowner, including as an advisor or consultant or assisting to “save the house,” or preventing a foreclosure if the result of the transaction is the homeowner’s failure to redeem. In addition, unless a transaction succeeds, (evidenced by a reconveyance of title to the homeowner) the foreclosure purchaser must pay consideration to the homeowner of at least 82% of the fair market value of the dwelling within 150 days of either an eviction or voluntary relinquishment of possession. Consideration includes unpaid rent or contract for deed payments prior to the date of eviction or relinquishment of possession, reasonable costs paid to third parties for completion of the reconveyance transaction, payment of money to satisfy a legal obligation of the homeowner, and reasonable costs to repair damage to the home caused by the homeowner.

Violations of these provisions are violations of Minnesota’s Consumer Fraud Act (Minn. Stat. § 325F.69) and all remedies under the Private Attorney General Act (Minn. Stat. § 8.31) are available. Actions under § 8.31 are deemed to be in the public interest. Remedies are cumulative and do not limit any other rights or remedies at law. In addition, the legislation authorizes a private right of action. Successful plaintiffs are entitled to actual damages and attorney’s fees and may be granted exemplary damages. Foreclosure purchasers found guilty of fraud or deceit are liable for criminal penalties of up to \$50,000 or one year imprisonment, or both.

## **Fire Insurance**

*Chapter 202*

*Amends Minn. Stat. § 65.01, subd. 3c*

***Effective August 1, 2004***

Notice of cancellation or nonrenewal must be mailed 30 days prior to a cancellation occurring during the middle of a policy period and 60 days prior to a nonrenewal. Under current law, notice must have been received 30 and 60 days, respectively.

## **Homeowner's Insurance**

*Chapter 239*

*Amends Minn. Stat. § 65A.30*

***Effective January 1, 2005 (applies to coverage applied for, issued, or renewed on or after that date)***

Prohibits an insurance company from refusing to renew (or declining to offer to write) homeowner's insurance solely because the property houses a day care service for five or fewer children.

## **Home Warranties**

*Chapter 196*

*Amends Minn. Stat. § 541.051*

***Effective August 1, 2004***

Places a 12-year statute of limitations on actions that may be brought for breach of a statutorily-required warranty. Current law provides that actions must be brought within two years of discovery, but contains no statute of repose.

## **Purchase Money Mortgages**

*Chapter 234*

*Amends Minn. Stat. § 507.03*

***Effective August 1, 2004***

**A. Nonjoinder of Spouses in Purchase Money Mortgages.** Current law provides that, where a spouse does not join in a purchase money mortgage, no interest in the property is created for that spouse as against a mortgagee. The amendment provides that, with the exception of a contract for deed agreement, the entire mortgage is deemed purchase money even if only a portion of the funds are used to pay the purchase price.

**B. Effect on Validity/Enforceability of Purchase Money Mortgages.** Actions or proceedings involving the validity or enforceability of purchase money mortgages are unaffected if: (1) they are pending as of August 1, 2004 or are commenced before August 1, 2005, and (2) a notice of the pendency of the action or proceeding is recorded or filed before August 1, 2005.

## **Real Estate Law And Mortgage Originator Law**

*Chapter 203*

*Amends Various Statutes*

*Recodifies Real Estate Statutes*

*Repeals Certain Statutes and Rules*

***Varying Effective Dates***

This bill makes a variety of changes to current real estate and mortgage originator law. It also recodifies existing real estate statutes. In so doing, it repeals Department of Commerce rules relating to real estate broker licensing and practice, incorporating them into statute. The major changes and additions include:

**A. Disclosure of Cancellation Rights.** Mortgage originators must disclose not only that the borrower has a right to cancel, but also the specific rights and procedures for exercising that right. *Amends Minn. Stat. § 58.16, subd. 2. Effective August 1, 2004.*

**B. Unreasonable Delay in Processing Loan.** Makes a lender who causes an "unreasonable delay" in processing a loan application beyond the expiration of an interest rate or discount point agreement

liable to the borrower for out-of-pocket damages (including the present value of the increased interest over the life of the loan) and for \$500 for each unreasonable delay that causes an interest rate or discount point agreement to expire. Evidence of “unreasonable delay” includes, but is not limited to: (a) the failure of the lender to return telephone calls or respond to a borrower’s inquiries about the loan, (b) the addition of non-governmentally mandated requirements, or (c) the failure of the lender to take actions to timely process the application if the borrower provided all relevant information. *Adds Minn. Stat. § 325F.691. Effective July 1, 2004.*

**C. Modification of Disclosure Requirements of Real Estate Sellers.** Sellers must continue to disclose, in writing, material facts that could significantly affect use and enjoyment or any intended use, but the material facts are no longer limited to those that relate to the adverse physical conditions of the property. *Amends Minn. Stat. § 513.55. Effective August 1, 2004.*

**D. Effect on Common Law of Real Estate Seller and Agent Disclosure Exceptions.** Provides that exceptions provided in statute to required seller and agent disclosures modify common law duties with respect to disclosure. Disclosures that are not required include whether: (a) a registered offender resides in neighborhood, unless the seller fails to provide information about the predatory offender registry, (b) a current or former occupant has or had HIV/AIDS, (c) the property was the site of a suicide, natural or accidental death, or paranormal activity, or (d) the home is located in a neighborhood containing an adult family home, community-based residential facility or nursing home. *Adds Minn. Stat. § 513.56, subd. 4 (sellers); Amends Minn. Stat. § 82.197, subd. 6 (agents) (recodified as Minn. Stat. § 82.22, subd. 8). Effective August 1, 2004.*

**E. Cancellation of a Real Estate Purchase Agreement.** Provides an alternative method to cancel a real estate purchase agreement by either the buyer or seller. In the case where a default does not automatically cancel the agreement, a seller or buyer may initiate cancellation, provided that a defaulting party has the right to cure within 15 days following service of the notice. Where the agreement provides that default triggers cancellation, notice of cancellation served by the buyer or seller is sufficient to effect cancellation. The form of the cancellation notice is specified. Current law applies only to the seller, and the procedure takes 30 days. *Adds Minn. Stat. § 559.217. Effective August 1, 2004.*

## **Municipal Assessments for Unpaid Charges**

*Chapter 275*

*Amends Minn. Stat. § 429.101, subd. 1*

*Effective August 1, 2004*

Provides that a municipality may adopt an ordinance to collect, through special assessment: (1) from landlords, disbursements made to maintain habitable premises, including payment of utility bills; (2) from residents or businesses, costs of painting the exterior of a structure to remedy a code violation. The painting provision sunsets on July 1, 2006.

## **Municipal Authority Over Hazardous Properties**

*Chapter 147*

*Amends various Sections of Minn. Stat. § 463*

*Effective April 4, 2004*

Counties, in addition to cities and towns, now have the authority to:

- (1) remove or raze any hazardous building or remove or correct any hazardous condition. *Amends Minn. Stat. § 463.151.*



- (2) acquire by eminent domain any hazardous building, any real estate on which any such building is located, or any vacant or undeveloped real estate. *Amends Minn. Stat. § 463.152, subd. 2.*
- (3) order the owner of any hazardous building or property within the municipality to correct or remove the hazardous condition of the building or property or to raze or remove the building. *Amends Minn. Stat. § 463.16.*
- (4) correct or remove the hazardous condition of any hazardous building or property and assess the owner. *Amends Minn. Stat. § 463.161.*

## **Satisfaction of Mortgage**

*Chapter 153*

*Adds Minn. Stat. § 507.403*

*Effective August 1, 2004*

Provides that a certificate of satisfaction of mortgage that contains certain information is effective to discharge a mortgage, even if one or more assignments have not been recorded. To be effective, the certificate must contain: the names of the original mortgagee, the assignee, and mortgagor; the dates of the mortgage and the original recording; and a statement that the assignee is the holder, owner, or successor in interest in the mortgage. However, execution or recording of a wrongful, erroneous, or unauthorized certificate of satisfaction does not relieve the mortgagor or any other person of liability.

## **Uniform Commercial Code (UCC)**

*Chapter 162*

*Adds and amends various Sections of Minn. Stat. § 336*

*Effective August 1, 2004*

Revises the Uniform Commercial Code to adopt revisions proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL). Replaces the current version of Article 1 with the version adopted by NCCUSL in 2001, except that Minnesota keeps its own existing choice of law provision. Completely revises Article 7 to create an “infrastructure” for electronic documents of title. Parts of Article 1 are also revised to recognize e-commerce. The most noteworthy changes in Article 1 are as follows:

1. Certain characteristics that evidence conspicuousness are specified. The reasonable person standard of what is conspicuous is retained, and the court’s power to determine whether or not a term is conspicuous is preserved. *Adds Minn. Stat. § 336.1-201(10).*
2. The definition of “good faith” is expanded to include, in addition to honesty in act, the observance of reasonable commercial standards. *Adds Minn. Stat. § 336.1-201(20).*
3. A definition for “course of performance” is added. It is defined as a sequence of conduct between parties to a particular transaction in which the agreement with respect to the transaction involves repeated occasions for performance by a party and the other party has knowledge of the nature of the performance, has an opportunity to object, and accepts or acquiesces to the performance without objection. *Adds Minn. Stat. § 336.1-303(a).*

## Courts

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### **Judgment Debtor Disclosure**

*Chapter 226*

*Amends Minn. Stat. § 491A.02, subd. 9*

*Effective August 1, 2004*

Deletes the requirement that a conciliation court judgment be docketed in district court for at least 30 days before information as to the debtor's assets can be sent to the judgment creditor upon request.

### **Stay of Execution of Money Judgments**

*Chapter 190*

*Amends Minn. Stat. § 550.36*

*Effective May 14, 2004 (applies to all cases pending on or filed after that date, except for any case in which a judgment has been entered and is under appeal or is the subject of a petition for discretionary review as of that date)*

Changes the stay of the judgment period from six months to the course of all appeals or discretionary appellate review. Provides the court with discretion regarding the amount required on a supersedeas bond. The court may require payment of either the entire judgment or a lesser amount if the court finds that to be in the interests of justice, provided that in no event may the amount of a bond exceed \$150,000. Notwithstanding the cap, a court may require a bond amount equal to the judgment if the judgment creditor provides evidence that the judgment debtor is dissipating assets to avoid paying the judgment.

# Data Practices

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## Modifications to Data Practices Requirements

Chapter 290

Amends Minn. Stat. §§ 13, 38; 45; 60A; 119B; 144; 270B; and 629

*Varying Effective Dates*

### A. Pleadings

Defines pleadings served on or by a government entity as public data to the same extent that the data would be public if filed with the court.

### B. Welfare Data

(1) Defines claims data and all related information from group health or dental plans as nonpublic data.

(2) Amends definition of welfare program to include temporary assistance for needy families and child care assistance.

(3) Amends exceptions to disclosure of welfare data.

(4) Revises definition of data pertaining to nonlicensed child care providers.

### C. Mental Health Data

Requires community mental centers and health plans to disclose mental health data to a law enforcement agency if the patient is involved in an emergency interaction and that data is necessary to protect the patient's or others health and safety.

### D. Closed Meetings

Provides that meetings by public bodies to receive security briefings and reports may be closed if disclosure would pose a danger to public safety.

### E. Birth Defect Data

Requires the Commissioner of Health to establish and maintain an information system containing data on the cause, treatment, prevention and cure of birth defects. Specifies data practices protections.

### F. Unemployment Insurance

Allows the Department of Employment and Economic Development to disseminate employer's identity to administer unemployment insurance program.

## Employer Disclosure of Employee Information

Chapter 137

Amends Minn. Stat. § 13.43, subd. 16

Adds Minn. Stat. § 181.967

Effective August 1, 2004 (applicable to all disclosures made after that date).

- A. **Disclosures by School Districts.** Changes the law to mandate that a school district must disclose to a requesting school district or charter school information about any acts of violence or sexual contact with a student by an employee if an investigation confirmed the occurrence and the investigation resulted in the resignation of the employee. *Amends Minn. Stat. § 13.43, subd. 16.*
- B. **Limited Liability for Disclosures by Private Employers.** Insulates private sector employers against actions by current or former employees for disclosure to a prospective employer or an employment agency of: (1) information relating to acts of violence, theft, harassment, or illegal conduct documented in the personnel record if those acts resulted in disciplinary action or resignation, or (2) with the employee's consent, information concerning (i) written disciplinary warnings and actions within the past five years, along with an employee's response, if any, (ii) written evaluations, along with an employee's response, if any, and (iii) written reasons for separation. Requires that disclosures be sent contemporaneously to the employee at his/her last known address. Prohibits prospective employers or employment agencies from disclosing the information they obtain without the written consent of the employee. *Adds Minn. Stat. § 181.967, subd. 3.*
- C. **Limited Liability for Disclosures by Public Employers.** Insulates public sector employers against actions by current or former employees for disclosure to a prospective employer or employment agency of; with the employee's written consent: (1) information relating to written employee evaluations (with any employee response), and (2) written reasons for the employee's separation. *Adds Minn. Stat. § 181.967, subd. 4.*
- D. **Limited Liability for Disclosures by School Districts.** Insulates school districts against actions by current or former employees for disclosure to another school district or charter school of information relating to acts of violence toward or inappropriate sexual contact with a student that resulted only in disciplinary action, but not dismissal or resignation. Any disclosure must be made contemporaneously to the employee. *Adds Minn. Stat. § 181.967, subd. 5.*
- E. **Exception.** Employers are not immune from lawsuits if an employee can demonstrate by clear and convincing evidence that the information disclosed was false, the employer knew or should have known it was false, and the employer acted with malicious intent to injure the employee. *Adds Minn. Stat. § 181.967, subd. 2.*

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### **Public Guardianship Terminology Changes**

*Chapter 146, Article 2, Section 14*

*Amends Minn. Stat. § 252A*

*Effective August 1, 2004*

The public guardianship statute for persons with mental retardation was changed to conform with changes adopted in 2003 to the private guardianship statute. The term "guardian" now refers to full or limited guardianship of the **person** and the term "conservator" refers only to **estates**. There is no longer a public conservatorship of the person. Various reference changes were made to conform to the 2003 Private Guardianship Act.

### **Parent Fees for MA Services for Children with Significant Disabilities**

*Chapter 288, Article 3, Section 13*

*Amends Minn. Stat. § 252.27*

*Various effective dates*

No overall reduction in parent fees was adopted. Three non-budget items were adopted: (1) allowing dependents of any age to count in family size, (2) clarifying that the fee is for the services provided and (3) excluding capital gains used for a home from income.

### **Annual Home and Community-Based Services (HCBS) Waiver Report Expanded**

*Chapter 288, Article 3, Section 25*

*Amends Minn. Stat. § 256B.49*

*Effective August 1, 2004*

The content of the annual HCBS waiver report is expanded to include information on: the county of residence/financial responsibility, age and major diagnoses for persons eligible for the CADI (nursing facility level of care) and TBI (traumatic brain injury) waiver programs for those: 1) receiving services; 2) screened and waiting for waiver services; and 3) those residing in nursing facilities who are under age 65.

### **Stakeholder Consultation for Evaluation of Consumer-Directed Services In MR/RC Waiver**

*Chapter 288, Article 3, Section 32*

*Effective August 1, 2004*

The Department of Human Services (DHS) is required to confer with interested parties during an independent evaluation of the consumer-directed community supports option, including a review of the funding reductions. A preliminary report to the Legislature is due February 15, 2005.

## **Disease Management Program Added To Medical Assistance**

*Chapter 288*

*Adds new Minn. Stat. § 256B.075*

***Effective August 1, 2004***

DHS is to develop and implement a disease management program to improve care and reduce costs in both fee for service and prepaid Medical Assistance. A report with recommendations is due to the Legislature on January 15, 2005.

## **Release of Mental Health Data to Law Enforcement**

*Chapter 290, Section 9*

*Amends Minn. Stat. § 13.46, subd. 7*

***Effective August 1, 2004***

A community mental health center, a county mental health division or a mental health provider must disclose mental health data to a law enforcement agency if the client or patient is involved in an emergency and the information is necessary to protect the client, patient or another person. If a patient provides consent, mental health providers must release mental health data to Hennepin County Criminal Mental Health Court personnel in advance of receiving a copy of the consent. The disclosure is limited to information necessary to assess eligibility for participation in the Criminal Mental Health Court.

## **Service Animal Injury a Misdemeanor**

*Chapter 159*

*Adds Minn. Stat. § 609.226, subd. 4*

***Effective August 1, 2004***

A dog owner who negligently or intentionally allows a dog to run uncontrolled which results in injuries to a service animal is guilty of a misdemeanor and can be required to pay restitution, costs and expenses.

## **Extended Employment Pilot Project**

*Chapter 188, Section 1*

***Effective May 13, 2004***

The Department of Employment and Economic Development (DEED) is to conduct a one-year extended employment pilot project on the "industrial model" in Thief River Falls for persons who are severely disabled. An evaluation on the pilot will be completed by October 5, 2005.

## **Centers for Independent Living (CIL)**

*Chapter 188, Section 2*

***Effective July 1, 2004***

DEED may transfer the CIL appropriation to the Vocational Rehabilitation program and acquire federal matching funds. The resulting matching funds will be equally divided between Vocational Rehabilitation (VR) and the Centers for Independent Living. The maximum amount of additional federal VR funds that may be shared with the Coils is \$2,438,000.

## **Day Training & Habilitation (DT&H)**

*Chapter 288, Article 1, Sections 32-37, 73*

*Amends and adds to Minn. Stat. § 245B*

*Effective May 30, 2004*

Licensed capacity will be based on the total number of persons receiving facility-based day training and habilitation services at the site at any one time. Licensed capacity does not apply to persons receiving community-based services or the temporary use of the facility-based service site for the limited purpose of providing transportation to persons receiving community-based services from the license holder. The license holder must comply at all times with all applicable fire and safety codes. Minimum required staffing ratios are moved from rules to Minn. Stat. § 245B. Clarifies requirements governing consumer health and safety plans when reporting and responding to incidents. Adds language allowing for anticipated growth or decline in the county redetermination of need, at least every four years, for day training and habilitation services.

## **Fetal Alcohol Spectrum Disorder Funding Transfer**

*Chapter 288, Article 6, Section 27*

*Effective July 1, 2004*

Funding for Fetal Alcohol grants and administration is transferred from the Department of Health to the statewide organization focused solely on prevention and intervention. Annual reports must be made to the Commissioner of Health on the services and programs funded.

## **2003 Changes Effective July 1, 2004**

See MA/EPD changes located in the Health Law Section.

## **Domestic Abuse**

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## **Extension of Order For Protection**

*Chapter 164*

*Amends Minn. Stat. § 518B.01, subd. 6a*

*Effective April 27, 2004*

Includes another basis for a subsequent order for protection or extension of an order for protection if the respondent is incarcerated and about to be released, or has recently been released from prison.

## **Orders For Protection and Temporary Restraining Orders Effective Upon Referee's Signing**

*Chapter 145*

*Amends Minn. Stat. § 518B.01 and Minn. Stat. § 609.748, subd. 4*

*Effective August 1, 2004*

Provides that ex parte orders for protection and temporary restraining orders are effective upon a referee's signature. This bill was necessary because in at least one county (Ramsey), ex parte OFP's and TRO's were not being enforced if they were just signed by a referee and not a judge.

## **Access to Police Reports**

*Chapter 290, Sections 16 and 37*

*Amends Minn. Stat. § 13.82, subd. 5 and Minn. Stat. § 629.341, subd. 4*

***Effective May 30, 2004***

Requires that written incident reports including domestic abuse data be released at no cost to the victim of domestic abuse or the victim's attorney. Current law allows release only to an organization designated as providing services to victims of domestic abuse.

## **Domestic Fatality Review Team**

*Chapter 290, Section 38*

***Effective August 1, 2004***

Extends the duration of the domestic fatality review team pilot project in the fourth judicial district (Hennepin County) until December 31, 2006, and the deadline for a report to January 15, 2007.

## **Education Law**

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## **Mental Health Screening**

*Chapter 294, Article 2, Section 8*

*Amends Minn. Stat. § 121A.45, subd. 3*

***Effective August 1, 2004***

Adds language to the current statute regarding the parent notification and meeting that applies when a pupil's total days of removal from school exceeds ten cumulative days in a school year. The new language provides that as part of the meeting the school district shall, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of the meeting, in part, is to determine whether the parent or guardian should have the pupil assessed or diagnosed to see whether the pupil needs treatment for a mental health disorder.

## **Improving Graduation Rates for Students with Emotional or Behavioral Disorders**

*Chapter 295, Article 5, Section 2*

*Adds a new subdivision to Minn. Stat. § 120B.35*

***Effective August 1, 2004***

Requires districts to develop strategies in conjunction with parents of students with emotional or behavioral disorders and the county board responsible for implementing §§ 245.487 to 245.4887 to keep students with emotional or behavioral disorders in school, when the district has a drop-out rate for students with an emotional or behavioral disorder in grades 9 through 12 exceeding 25 percent.



A district must develop a plan in conjunction with parents of students with EBD and the local mental health authority to increase the graduation rates of students with EBD. A district with a drop-out rate for children with an emotional or behavioral disturbance in grades 9-12 that is in the top 25 percent of all districts shall submit a plan for review and oversight to the commissioner.

## **Employment and Training Programs**

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### **Changes to the Dislocated Worker Program**

*Chapter 257*

*Amends Minn. Stat. §§ 116L.01, subd. 1; 116L.05, subd. 4; 116L.17, subd. 1, 4-6; 176.011, subd. 15-16; 116L.17, subd. 2-3. Repeals Minn. Stat. §§ 116L.04, subd. 4 and 116L.17, subd. 7*

#### ***Varying Effective Dates***

The Dislocated Worker Program provides funding for programs to help workers who have lost their jobs primarily due to plant closings, mass layoffs or general economic condition. The most significant change was to the formula by which funds are allocated to laid-off workers. Previously, at least half of the Dislocated Worker Program money had to be targeted for workers who lost their jobs due to mass layoffs totaling 50 or more workers. The remaining balance was targeted for workers involved in layoffs of fewer than 50. Because of the increased layoffs from smaller firms, the statute has been changed to provide more funds to assist these workers.

## **Family Law**

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### **Parental Education Classes**

*Chapter 273, Sections 10-11*

*Amends Minn. Stat. §§ 518.157, subd. 3 and 518.091*

***Effective July 1, 2004***

In a proceeding under Chapter 518 where custody or parenting time is contested, requires parents take a minimum of eight hours of parental education classes. Current law says that in contested cases (including those under Minn. Stat. §§ 257.51 to 257.75) parents must attend a parental orientation and education program but no specific number of hours is required. Most counties have required four hours. The new law eliminates the references to Minn. Stat. § 257. Unless otherwise ordered by the court, participation must begin within 30 days after the first filing with the court or as soon as practicable after that time based on the reasonable availability of classes for the program for the parent. Adds a requirement that the summons under Minn. Stat. § 518.091 include notice of the parent education program requirements.

## **Minnesota Health Marriage and Responsible Fatherhood Initiative**

*Chapter 273, Section 1*

*Creates new Minn. Stat. §256.742*

***Effective July 1, 2004***

Requires the Department of Human Services (DHS) to develop and implement a Minnesota Healthy Marriage and Responsible Fatherhood Initiative. The purpose of the Initiative is to develop a community-based collaborative project that will test and evaluate a comprehensive strategy for promoting marriage and responsible fatherhood among unmarried urban parents who are expecting or have recently had a child. Some of the objectives are to increase paternity establishment, encourage stable family formation and encourage community support for marriage and family formation among unmarried parents.

## **Marriage Licenses**

*Chapter 273, Sections 3-9*

*Amends Minn. Stat. §§ 517.07; 517.08, subd. 1b and 1c; 517.10*

***Effective July 1, 2004***

Marriage licenses are now to be obtained from the local registrar rather than the court administrator. The marriage license fee is increased from \$80 to \$85. The \$5 increase is appropriated to DHS for the healthy marriage and responsible father initiative. Marriage certificates are to be filed with the local registrar, not the court administrator.

## **Visitation and Access Funds**

*Chapter 288, Article 4, Section 60*

***Effective August 1, 2004***

Requires DHS to apply for and accept on behalf of the state federal funds for access and visitation programs and to transfer the funds in three equal amounts to the FATHER Project of Goodwill/Easter Seals of Minnesota, the Hennepin County African American Men Project, and the Minnesota Fathers and Families Network.

*Note: DHS has applied for the federal funds since passage of this legislation. Despite the clear language requiring the funds be transferred to specific organizations, DHS will be issuing a request for proposals.*

## **Health Law**

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## **Emergency Medical Services**

*Chapter 144*

*Amends Minn. Stat. § 144E*

***Varying Effective Dates***

Modifies Emergency Medical Services Regulatory Board requirements regarding membership criteria, training programs and mandatory reporting requirements. Clarifies language regarding duties of ambulance service personnel.

## **Community Transition Interagency Committee**

*Chapter 166*

*Amends Minn. Stat. § 125A.22*

***Effective April 27, 2004***

Provides that members of community transition interagency committees for individuals with disabilities must include mental health representatives. The committee identifies services and programs, facilitates the development of multi-agency teams, develops community plans and recommends changes in the community services system for individuals with disabilities.

### **Adverse Health Care Events Reporting System Modifications**

*Chapter 186*

*Amends Minn. Stat. §§ 144; 147; 147A; 148; 151; and 153*

***Effective August 1, 2004***

(1) Requires health licensing boards that regulate physicians, physician assistants, nurses, pharmacists and podiatrists to report to the Minnesota Department of Health events that come to their attention that may qualify as adverse health care events (medical errors). (2) Provides that the requirement to report medical errors includes children under the Maltreatment of Minors Act. (3) Classifies data reported and created as part of the reporting system as nonpublic and confidential except as necessary to communicate with facilities and to publish an annual report. (4) Grants the Boards of Medical Practice and Nursing and its employees civil and criminal immunity for their actions relative to the reporting system with regard to licensing physicians, physician assistants and nurses. (5) Clarifies the types of maltreatment of vulnerable adult incidents to be reported to the local Common Entry Point (CEP) for health care facilities. (6) Identifies the responsibility of licensed facilities to record and file incidents with the Department of Health that do not rise to the level of a maltreatment investigation.

### **Nursing Homes Planned Closures, Rate Adjustments and New Reimbursement System**

*Chapter 194*

*Amends Minn. Stat. § 256B.431 and .437*

***Varying Effective Dates***

Authorizes the Department of Human Services (DHS) to negotiate planned closures for nursing facilities provided proposals are budget neutral. Provides process for property rate adjustments. Requires that DHS present to the legislature by January 15, 2005 recommendations for establishing a new nursing facility reimbursement system.

### **Outpatient Surgical and Diagnostic Imaging Centers**

*Chapter 198*

*Amends Minn. Stat. § § 144; 147; 256B; and 256L*

***Varying Effective Dates***

Requires that physicians disclose to patients their ownership interest when making referrals to outpatient surgical centers or imaging facilities. Imaging facilities and outpatient surgery centers must: (1) report

new financial and utilization information, including all ownership interests, payer mix, and utilization numbers by payer; (2) follow quality and patient safety standards, including reporting medical errors and providing appropriate nursing care; and, (3) effective 5/16/04, the centers must serve patients enrolled in Medical Assistance, General Assistance Medical Care and MinnesotaCare if the centers serve state health plan and worker's compensation patients.

### **State Soldier's Assistance Fund**

*Chapter 256*

*Amends Minn. Stat. § 197.03*

***Effective May 30, 2004***

Eliminates hospitalization and medical treatment benefits from the State Soldier's Assistance Fund due to funding shortage. The Fund is now primarily used to provide emergency optical and dental assistance to needy Veterans.

### **Medical Assistance Asset Transfers**

*Chapter 266*

*Amends Minn. Stat. § 256B.0595, subd. 1b*

***Effective upon publication of State Register Notice of receipt of federal approval***

Specifies conditions under which a charitable contribution to a non-profit organization is not considered a prohibited transfer of assets for persons applying for Medical Assistance.

### **MCHA and Other Health Plan Requirements**

*Chapter 268*

*Amends Minn. Stat. §§ 62A; 62E; 62L; 62Q; 62T; 72A; and 256B.69*

***Varying Effective Dates***

#### **A. Minnesota Comprehensive Health Association (MCHA)**

MCHA provides coverage for hard to insure individuals. The legislation (1) authorizes MCHA enrollee incentive for participation in disease management program; (2) phases out MCHA coverage for extended basic Medicare supplement plans by January 1, 2006; and (3) requires analysis of eligibility standards used for MCHA enrollment, comparing MCHA's practices with other states. The study and recommendations must be presented to the legislature by January 15, 2005.

#### **B. Other Health Plans**

The bill also: (1) provides for high deductible health plans effective January 1, 2004; (2) authorizes health care purchasing alliances to include seasonal employees; (3) provides for electronic submission of health care information by health plans; and (4) requires automatic enrollment in the mother's health plan for an infant born to a Medical Assistance eligible mother.

## **Department of Health Licensing**

*Chapter 279*

*Amends Minn. Stat. §§ 144E; 147; 147A; 147B; 148; 148B; 148C; 150A; 153; 192; 62Q; and 121A*

*Varying Effective Dates*

Modifies requirements for various public health occupations. The legislation (1) defines the role of speech-language pathology assistants; (2) provides for renewal of certain licenses by members of the military; (3) modifies licensing requirements for physician assistants, acupuncture practitioners, nurses, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants and podiatrists; (4) modifies conditions for designating essential community providers; and (5) modifies certain immunization provisions.

## **Public Health Data Study**

*Chapter 279*

*Effective August 1, 2004*

The commissioner of health must prepare a plan for development of a statewide public health data management system which includes a cost-effective way for collecting and utilizing public health data. The plan must be completed and presented to the legislature by January 15, 2005.

## **Pharmaceutical Manufacturer Rebate Program**

*Chapter 280*

*Amends Minn. Stat. § 62J.23*

*Effective July 1, 2004*

Clarifies that individuals may participate in pharmaceutical manufacturer's rebate programs. Individuals may receive discounts or other price reductions, samples or limited-time free supplies offered by manufacturers.

## **Department of Human Services Miscellaneous Policy Legislation**

*Chapter 288*

*Amends Minn. Stat. §§ 13.43; 62A; 62H; 62C; 62J; 144; 241; 245; 245A; 245B; 245C; 246; 246B; 252; 253; 253B; 256; 256B; and 256D*

*Varying Effective Dates*

Makes various substantive and technical amendments to the Human Services Licensing, Background Studies, Maltreatment of Minors and Vulnerable Adults Acts, including:

### **A. Health Care Services Changes**

- (1) Provides case management services for individuals with serious emotional disturbance over age 18.
- (2) Allows DHS to establish a mechanism by which counties, DHS, hospitals, health plans, consumers, and others may enter into agreements to develop effective, efficient and accessible provision of mental health services.
- (3) Requires county boards to provide children's mental health screening to certain children within the limits of legislative appropriations.
- (4) Requires DHS to create a savings account for each patient receiving treatment in a secure treatment facility. The funds come from the patient's share of the cost of care to be used for housing and other personal needs when the patient returns to the community.
- (5) Expands allowable medical assistance payments to include staff travel time to provide rehabilitative services and nonresidential crisis stabilization services.

- (6) Requires individual family policies of indemnity insurers, HMOs and nonprofit health service plans to cover medical and dental expenses for treatment of cleft palate up to age 19 and certain students up to age 25. Currently, coverage is limited to dependents up to age 18.
- (7) Establishes an additional priority category for the Mentally Retarded/ Related Condition waiver based on the need to serve persons whose consumer support grant exception amount was eliminated in 2003.
- (8) Specifies that medical assistance covers nursing facility services for persons eligible for Medicare who have waived the Medicare nursing facility benefit and enrolled in the Medicare hospice program.
- (9) Requires DHS to issue requests for proposals for collaborative service models between counties and managed care organizations, to integrate elderly waiver services and additional nursing services into managed care. Prohibits state-wide managed care coverage of elderly waiver services before 7/1/06.
- (10) Requires health plans to cover ovarian cancer surveillance tests.
- (11) Requires DHS to develop and implement a disease management program to improve patient care and health outcomes and reduce health care costs. Requires DHS to report to the Legislature the status of disease management initiatives and recommendations by 01/15/05.
- (12) Repeals the requirement that state-regulated health coverage must include autologous bone marrow transplants for breast cancer patients.

**B. Newborn Enrollment in Mother's Health Plan**

Requires DHS to enroll infants born to a Medical Assistance eligible mother into the mother's managed care plan.

**C. Prescription Drugs**

Requires pharmacies to provide to purchasers information about co-payment amount and the usual and customary price of the prescription. Also provides exemptions from anti-kickback laws for receipt by individuals of prescription drug and medical supply discounts and trinkets and mementos of insignificant value offered by pharmaceutical manufacturers and others as long as specified conditions are met.

**D. Lead Paint Study**

Requires the Commissioner of Health, in consultation with others, to develop and evaluate the best strategies to reduce the number of children endangered by lead paint.

**E. Birth Defects Information System**

Requires the Commissioner of Health to establish a birth defects information system with protections under the Data Practices Act.

**Reminder That The Following Changes From Last Year Take Effect July 1, 2004:**

**MA-EPD:** Two changes in Medical Assistance for Employed Persons with Disabilities: (1) a new requirement that monthly earnings must be over \$65 per month; and (2) taxes must be withheld from wages or for the self-employed, estimated taxes must be paid on a quarterly basis.

**Pregnant Women:** The law requires a reduction in the Medical Assistance eligibility standard for pregnant women from 275% of the federal poverty level (FPL) to 200% FPL. Although the law requires this change, DHS has delayed the change and informed the Legislature that enacting the change would jeopardize federal funding.

**Children:** A reduction in the Medical Assistance eligibility standard for children from 170% FPL to 150% FPL.

# **Housing Law**

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## **Housing Discrimination**

*Chapter 263*

*Adds Minn. Stat. § 469.018, subd. 3*

***Effective July 1, 2004.***

Prohibits common ownership communities from prohibiting or limiting the ability of a public housing or redevelopment authority to lease units the authority has purchased to low- or moderate-income families.

## **Assisted Living Facilities**

*Chapter 185*

*Amends Minn. Stat. § 144D*

***Effective August 1, 2004***

Provides that for purposes of consistency with long term care insurance policies, a housing with services establishment that holds a home care license or other license or approval required for delivery of services constitutes an  assisted living facility or residence.

## **Supportive Housing and Managed Care Pilot Project**

*Chapter 204*

*Amends Minn. Stat. § 256K*

***Effective July 1, 2004***

Extends to 06/30/07, the supportive housing and managed care pilot project to determine whether the integrated delivery of employment services, supportive services, housing and health care into a single flexible program will reduce public expenditures on homeless families and individuals.

## **Municipality's Affordable and Life-Cycle Housing Goals**

*Chapter 259*

*Amends Minn. Stat. § 473.254*

***Effective May 30, 2004***

Modifies the method used by the Met Council for determining each municipality's affordable and life-cycle housing opportunities amount beginning with calendar year 2003 and provides transition provisions. This applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties. Also modifies the basis on which nonparticipating municipalities may elect to participate.

## **Lead Reduction Study**

*Chapter 288, Article 3, Section 31*

*Effective August 1, 2004*

Requires the Department of Health to consult with the Department of Employment and Economic Development, the Minnesota Housing Finance Agency, and the Department of Human Services to develop and evaluate the best strategies to reduce the number of children endangered by lead paint. The study shall examine: (1) how to promote and encourage primary prevention; (2) how to ensure that all children at risk are tested; (3) whether or not to reduce the state mandatory intervention from 20 to ten micrograms of lead per deciliter of whole blood and if a reduction is not recommended whether to develop guidelines on intervention for children with blood levels between ten and 20 micrograms of lead per deciliter of whole blood;(4) how to provide incentives and funding support to property owners for lead hazard prevention and reduction; and (5) ways to provide resources for local jurisdictions to conduct outreach. The results of the study and any recommendations are due to the legislature by January 15, 2005.

## **Minnesota Family Investment Program (MFIP) and the Diversionary Work Program (DWP)**

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## **Hearing Authority**

*Chapter 288, Article 4, Section 25*

*Amends Minn. Stat. § 256.046, subd. 1*

*Effective August 1, 2004*

Includes DWP in the list of programs for which local agencies are required to initiate administrative hearings if a participant is accused of wrongfully obtaining assistance or intentional program violations.

## **Disqualification**

*Chapter 288, Article 4, Section 26*

*Amends Minn. Stat. § 256.98, subd. 8*

*Effective August 1, 2004*

Requires participants who have been found guilty of wrongfully obtaining assistance to be disqualified from DWP.



### **Food Stamp Employment and Training Funding (FSET)**

*Chapter 288, Article 4, Section 27*

*Amends Minn. Stat. § 256D.051, subd. 6c*

***Effective August 1, 2004***

Prohibits the cost of services for each county's FSET program from exceeding the annual allocated amount. Current law prohibits the cost of services for the program from exceeding an average of \$400 per participant. This subdivision expires effective June 30, 2005.

### **Qualified Noncitizen**

*Chapter 288, Article 4, Section 29*

*Amends Minn. Stat. § 256J.08, subd. 73*

***Effective August 1, 2004***

Modifies the definition of "qualified noncitizen" to align with federal law.

### **Shared Household Standard**

*Chapter 288, Article 4, Section 30*

*Amends Minn. Stat. § 256J.08, subd. 82a*

***Effective August 1, 2004***

Clarifies that the shared household standard also applies to a caregiver disqualified under the 60-month time limit.

### **Interview to Determine Referrals and Services**

*Chapter 288, Article 4, Section 31*

*Amends Minn. Stat. § 256J.09, subd. 3b*

***Effective August 1, 2004***

Clarifies universal participation requirements to include an explanation to participants that they may be entitled to a plan including special circumstances and if they are not required to participate in employment services, they may choose to volunteer to participate in employment and training services.

### **Income Exclusions**

*Chapter 288, Article 4, Section 32*

*Amends Minn. Stat. § 256J.21, subd. 2*

***Effective August 1, 2004***

Allows state adoption assistance payments and up to an equal amount of county adoption assistance payments to be excluded in determining a family's available income for the MFIP program.

## **Documentation and Personal Statement**

*Chapter 288, Article 4, Section 35-36*

*Amends Minn. Stat. § 256J.32, subd. 2 and 8*

***Effective August 1, 2004***

Corrects language regarding the use of affidavits so it is consistent with legal requirements for the use of affidavits. Substitutes the term “signed personal statement” for “affidavit.” Specifies that the signed personal statement may only be used as a last resort to meet verification requirements.

## **Unearned Income**

*Chapter 288, Article 4, Section 37*

*Amends Minn. Stat. § 256J.37, subd. 9*

***Effective August 1, 2004***

Clarifies the treatment of unearned income. Income not paid on a monthly basis must be converted to a monthly amount for budgeting. These payments must be counted beginning in the month they are received.

## **Notice of Time Limit 12 Months Prior to 60-Month Time Limit Expiring**

*Chapter 288, Article 4, Section 38*

*Amends Minn. Stat. § 256J.415*

***Effective August 1, 2004***

Clarifies that when less than 12 months of the 60 months is remaining due to previous receipt of TANF in Minnesota, or from another state, the notification of the number of months remaining is provided at the time of MFIP approval.

## **Changes to Provisions Regarding Extensions**

*Chapter 288, Article 4, Section 39-42*

***Effective August 1, 2004***

- **Eligibility.** Prior to denying an extension, requires that a review of good cause eligibility be completed if a sanction has been applied. *Amends Minn. Stat. § 256J.425, subd. 1.*
- **Employed participants.** For the purposes of hardship extension eligibility, clarifies how the 10 out of 12 months of compliance is applied when less than 10 months of eligibility remain. Also clarifies the minimum number of hours needed for the purpose of meeting the requirements for an extension. *Amends Minn. Stat. § 256J.425, subd. 4.*
- **Accrual of certain exempt months.** Clarifies the accrual of exempt months related to the 60-month time limit. Makes changes to align with the elimination of exemptions and implementation of universal participation. *Amends Minn. Stat. § 256J.425, subd. 5.*
- **Sanctions for extended cases.** For two-parent families receiving an extension, clarifies that when a parent is out of compliance with the employment and training services requirements, the sanction in the 61<sup>st</sup> month is considered the first sanction for the purposes of applying sanctions, except that the amount of the sanction is 30 percent. *Amends Minn. Stat. § 256J.425, subd. 6.*

## **Participants Not Complying With Program Requirements**

*Chapter 288, Article 4, Section 43*

*Amends Minn. Stat. § 256J.46, subd. 1*

***Effective August 1, 2004***

Requires the county to redetermine the family's continued eligibility for food support payments when an MFIP case is closed due to noncompliance.

## **Overview of Employment and Training Services**

*Chapter 288, Article 4, Section 45*

*Amends Minn. Stat. § 256J.515*

***Effective August 1, 2004***

Exempts applicants who request and qualify for a family violence waiver from attending a group overview. Information usually presented in an overview must be covered during the development of an employment plan.

## **Assessments**

*Chapter 288, Article 4, Section 46*

*Amends Minn. Stat. § 256J.521, subd. 1*

***Effective August 1, 2004***

Clarifies that job counselors must use assessment information to determine whether a participant qualifies for a family violence waiver.

## **Employment Plan**

*Chapter 288, Article 4, Section 47*

*Amends Minn. Stat. § 256J.521, subd. 2*

***Effective August 1, 2004***

Clarifies that priority must be given for activities related to a family violence waiver when developing an employment plan.

## **Approval of Postsecondary Education or Training**

*Chapter 288, Article 4, Section 48*

*Amends Minn. Stat. § 256J.53, subd. 2*

***Effective August 1, 2004***

Clarifies that the hourly unsubsidized employment requirement does not apply for intensive education or training programs lasting 12 weeks or less.

### **Good Cause for Failure to Comply**

*Chapter 288, Article 4, Section 50  
Amends Minn. Stat. § 256J.57, subd. 1  
Effective August 1, 2004*

Specifies that good cause provisions apply to all participants, including nonparental caregivers. Conforms to other Sections of statute.

### **Performance Based Funds**

*Chapter 288, Article 4, Section 53  
Amends Minn. Stat. § 256J.626, subd. 7  
Effective August 1, 2004*

Modifies the performance based allocation formula and phases in the changes. The Work Participation Rate target was reduced to 30 percent for SFY05, 40 percent for SFY06, and 50 percent for SFY07. With this reduction, most counties will now be able to reach the target and earn a portion of the performance withhold.

### **Universal Participation Required**

*Chapter 288, Article 4, Section 57  
Amends Minn. Stat. § 256J.95, subd. 11  
Effective August 1, 2004*

Makes technical changes. Requires claims of family violence to be documented by the applicant or participant by providing a sworn statement, which is supported by collateral documentation.

### **DWP Overpayments and Underpayments**

*Chapter 288, Article 4, Section 59  
Amends Minn. Stat. § 256J.95, subd. 19  
Effective August 1, 2004*

Requires overpayment and underpayment corrections to be calculated using prospective budgeting. Requires ATM errors to be recovered. DWP overpayments are not subject to cross program recoupment.

## **Trusts, Guardians and Conservators**

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### **Trust Law Changes**

*Chapter 146, Article 1  
Amends Minn. Stat. § 501B  
Effective August 1, 2004*

Amends trust law to provide (1) a legal structure for memorial funds such as a community response to a personal tragedy; (2) acquisition of title by successor trustees; (3) binding non-judicial settlement agreements among trust beneficiaries; and (4) court removal of trustees in limited circumstances.

## **Guardians and Conservators**

*Chapter 146, Article 2*

*Amends Minn. Stat. § 524*

***Effective August 1, 2004***

(1) Deletes unnecessary language and makes technical corrections to the 2003 Guardianship Act; (2) adjusts the amount of funds a guardian may transfer; and (3) lists what orders, judgments and decrees may be appealed to the Court of Appeals.

## **Unemployment Insurance**

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## **Notices by Electronic Transmission**

*Chapter 183, Section 2*

*Creates new Minn. Stat. § 268.032*

***Effective July 1, 2005***

Adds language stating that where the law allows any required notice, determination or decision be sent by electronic submission, that the Commissioner can do so only if the applicant or employer has affirmatively indicated they would prefer receiving those communications by electronic transmission rather than by mail. Provides that an applicant or employer may withdraw their preference for electronic transmission. Specifies that the notice, determination or decision must be sent to the last known electronic address. If the Commissioner is subsequently notified that the electronic address is no longer in service, the commissioner must then send the required communication by mail to the last known address.

## **Definition of Electronic Transmission**

*Chapter 183, Section 7*

*Amends Minn. Stat. § 268.035, adding subd. 12b*

***Effective August 1, 2004***

Defines “electronic transmission” as a communication sent by electronic, digital, magnetic, wireless, optical, electromagnetic or similar capabilities, and when allowed by the commissioner, a telephone communication.

## **Suitable Employment**

*Chapter 183, Section 11*

*Amends Minn. Stat. § 268.034, subd. 23a*

***Effective August 1, 2004***

Clarifies the definition of suitable employment for those individuals with a partial disability but who can still work.

## **Rounding Down to Next Whole Dollar**

*Chapter 183, Various Sections*

*Amends Various Statutes*

***Varying Effective Dates***

Adds language to a number of statutory provisions that where a benefit amount is not a whole dollar, it is to be reduced down to the next lower whole dollar.

## **Social Security Disability Benefits**

*Chapter 183, Section 56*

*Amends Minn. Stat. § 268.085, subd. 4*

***Effective August 1, 2004***

Amends state law to comply with a recent Minnesota Court of Appeals decision (Huston) involving social security offsets and the ability to work. The law has been that an applicant is disqualified from receiving unemployment insurance benefits for any week that the applicant received social security disability benefits. In the future, an applicant is eligible to receive their weekly unemployment benefit amount after deducting one half of the weekly equivalent of the primary social security disability benefits the applicant receives. In order to be eligible, the applicant must either 1) provide a statement from a health care professional that the applicant is able to work and available for suitable employment or 2) demonstrate that the social administration approved the collecting of disability benefits each month the applicant was employed during the base period used to establish eligibility for unemployment insurance. These changes do not apply to social security survivor benefits.

## **Able to Work**

*Chapter 183, Section 61*

*Amends Minn. Stat. § 268.085, subd. 14*

***Effective August 1, 2004***

Modifies the definition of able to work by deleting “comparable employment” and substituting “the usual duties of work that is gainful employment engaged in by others as a means of livelihood.”

## **Good Reason to Quit Caused by the Employer**

*Chapter 183, Section 63*

*Amends Minn. Stat. § 268.095, subd. 3*

***Effective August 1, 2004***

Adds language stating that a good reason caused by the employer for quitting is a reason that is adverse to the worker (in addition to existing requirements). Specifies that the analysis required must be applied to the specific facts of each case. Amends language so that if the reason for quitting occurred because of the applicant’s employment misconduct, that shall not be considered a good reason caused by the employer. These changes resulted from the Minnesota Court of Appeals decisions in Hayes v. Kmart and Rootes v. Wal-Mart.

### **Aggravated Employment Misconduct**

*Chapter 183, Section 65*

*Amends Minn. Stat. § 268.095, subd. 6a*

***Effective August 1, 2004***

Amends the definition of aggravated employment misconduct and provides that it is the exclusive definition.

### **Appeals by Electronic Transmission and Mail**

*Chapter 183, Section 70*

*Amends Minn. Stat. § 268.103*

***Effective August 1, 2004***

Deletes references to allowing appeals by “telephone” and replaces with “electronic transmission.” States that the Commissioner must allow an appeal filed by mail even if an appeal by electronic transmission is allowed. Adds language that a written statement delivered or mailed to the department that could reasonably be interpreted to mean that an involved applicant or employer is in disagreement with a specific determination or decision shall be considered an appeal. No specific words need be used for the written statement to be considered an appeal. (This incorporates part of the administrative rules).

### **Hearings, Review and Appeal Process**

*Chapter 183, Section 71*

*Amends Minn. Stat. § 268.105*

***Effective August 1, 2004***

Adds language stating that the department shall have discretion regarding the method by which the evidentiary hearing is conducted. Removes the Commissioner from the appeals process. Instead of review by the Commissioner, there will now be de novo review by a senior unemployment review judge. A senior unemployment review judge may decline to review certain cases in which there is no substantial dispute or the appealing party did not attend the evidentiary hearing. This means a second level of appeal within the department may be dismissed but there remains the right to appeal to the Court of Appeals.

### **Overpayment Due to Fraud**

*Chapter 183, Section 79*

*Amends Minn. Stat. § 268.18, subd. 2*

***Effective August 1, 2004***

Amends provisions defining an applicant who has committed fraud to be consistent with the fraud definition in Minn. Stat. § 268.182. Instead of allowing a determination of overpayment of fraud to be made at any time, it now must be made within four years of the effective date of the benefit account from which the unemployment benefits were fraudulently obtained.

## **Language Change**

*Chapter 183, Section 86*  
*Amends Minn. Stat. § 268*  
***Effective August 1, 2004***

Instructs the revisor to change the terms “evinces” and “demonstrates” to “displays clearly” wherever they appear in Minn. Stat. § 268.

## **Utilities**

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## **Budget Billing Provisions**

*Chapter 216*  
*Repeals Minn. Stat. § 325.015*  
***Effective August 1, 2004***

Repeals an obsolete and superceded section of law, which provided that budget billing plans offered by utilities were voluntary. In 2001, the Legislature adopted Minn. Stat. §216B.098, subd. 2, making budget billing plans mandatory. The repealed statute also contained a definition of budget billing that permitted utilities to roll arrears into the budget plan, effectively requiring all arrears to be repaid within twelve months.

## **Directory Assistance Charges**

*Chapter 261*  
*Adds Minn. Stat. § 237.155*  
***Effective August 1, 2004***

Provides that a local exchange carrier providing directory assistance for a fee (either directly or through a third party) must provide an immediate credit to a customer who informs the directory service provider that incorrect information was given. Carriers must provide notice of the right to immediate credit to new customers both within 45 days of commencing service and to existing customers annually.

## **Dispute Resolution**

*Chapter 261*  
***Effective August 1, 2004***

Requires the Public Utilities Commission to develop by January 15, 2005, in consultation with the Office of the Attorney General and the Department of Commerce, a more seamless system for resolving consumer complaints. Currently, dispute resolution functions are split among the three agencies, but consumers have no single point of entry, and are unaware of what issues each agency covers.



## **Interest on Utility Deposits**

*Chapter 261*

*Amends Minn. Stat. §§ 325E.02 and 237.06*

***Effective August 1, 2004***

**A. Formula.** Changes the interest rate utilities must pay on deposits from 6% to a rate to be set annually by the Department of Commerce based on the weekly average yield of one-year Treasury bills.

**B. Cap on Telephone Deposit Amount.** Removes the maximum cap of \$50 for telephone deposits. However, the rules governing when deposits can be demanded (i.e., only if applicants or existing customers have failed to pay prior utility bills) and the formula for determining the amount of the deposit (i.e., maximum of two months' bills) remain intact.

## **Unauthorized Third Party Charges**

*Chapter 214*

*Adds Minn. Stat. § 237.655*

***Effective August 1, 2004***

Prohibits a local telephone company from charging customers for third party services (a practice known as "cramming" or "loading") without the customer's prior express authorization. Any unauthorized charges must be removed upon the customer's notification to the company, and any such charges paid during the prior six months must be credited, unless the company can document the customer's prior authorization. Any contract entered into with a third party via the Internet must be verified by the service provider by e-mail to the customer within 48 hours of receiving the customer's authorization.

## **Wireless Telecommunications Services**

*Chapter 261*

*Adds Minn. Stat. § 325E.695*

***Effective July 1, 2004 (applies to contracts executed on or after May 1, 2004)***

Requires wireless companies providers to provide each customer with a written contract within 15 days of the date the contract is executed. Electronic copies may be provided at the customer's request. Requires companies to notify customers in writing 60 days prior to a substantive change in contract terms. The change is effective only if the customer opts in by affirmatively accepting the change. If the customer fails to opt in, the original contract terms apply. This provision sunsets on August 1, 2007.

## **Xcel Low-Income Affordability Program**

*Chapter 216*

*Amends Minn. Stat. § 216B.16, subd. 14*

***Effective July 1, 2004***

Replaces the current Xcel Low-Income Discount Program. The company will identify low-income customers with the highest energy burdens and provide benefits to ensure that households do not devote more than two or three percent of their income to electric costs. Customers will be required to enter into an affordable payment arrangement, whereby they make mutually agreed upon payments that are less than the full bill. The program makes up the difference. The program may also provide other services, which could include energy efficiency and conservation investments. Those customers who are elderly or who have a disability will either move to the affordability program or continue to receive the current discount, which is a 50% reduction on the first 300

kilowatt-hours of electricity. The statutory goals of the new program are to: assist those most in need, reduce credit and collection activities and costs, increase customer payments, and reduce disconnections.

## **Youth Law**

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### **Admission Standards**

*Chapter 288, Article 1, Section 30*  
*Amends Minn. Stat. § 245A.22, subd. 2*  
*Effective May 30, 2004*

Specifies admission standards for independent living assistance programs for certain targeted youth.

### **Independent Living Plan**

*Chapter 288, Article 1, Section 31*  
*Amends Minn. Stat. § 245A.22, subd. 3*  
*Effective May 30, 2004*

Specifies the services that a license holder must make available to the targeted youth participating in independent living assistance programs.